

EXHIBIT - 1

1 IN THE DISTRICT COURT OF TULSA COUNTY

2 STATE OF OKLAHOMA

3
4 STATE OF OKLAHOMA,)
5 Plaintiff,)
6 -v-) Case No. CRF-1984-183
7 KARL ALLEN FONTENOT,) Judge Cliff Smith
8 Defendant.)

9
10
11 TRANSCRIPT OF PROCEEDINGS

12 HAD FEBRUARY 23rd, 2024,

13 BEFORE THE HONORABLE CLIFFORD SMITH,

14 DISTRICT JUDGE FOR TULSA COUNTY,

15 TULSA, OKLAHOMA.
16
17

18
19
20
21
22
23 REPORTED BY:

24 Taisha A. Irons, C.S.R.
25 Tulsa County Courthouse, 500 S. Denver
Tulsa, Oklahoma 74103 (918)596-5361

A P P E A R A N C E S

For the State of Oklahoma: (Appeared by telephone)

Mr. Kyle Cabelka,
District Attorney - District 5
Comanche Courthouse
315 S.W. 5th Street, Room 502
Lawton, Oklahoma 73501

For the Defendant:

Ms. Andrea Digilio Miller,
Attorney At Law
Oklahoma Innocence Project
800 N. Harvey Avenue, Suite 317
Oklahoma City, Oklahoma 73102

Mr. Corbin Brewster and
Ms. Katie McDaniel,
Attorneys At Law
2617 East 21st Street
Tulsa, Oklahoma 74114

Ms. Tiffany Murphy,
Attorney At Law
790 North Cliffside Drive
Fayetteville, AR 72701

P R O C E E D I N G S

THE COURT: All right. We are on the record now back in the matter of State versus Fontenot. The parties are here appearing in person, other than the District Attorney, who is appearing by telephone, but he is present at this time.

What we have before us is a pending motion to suppress defendant's confession. And I believe the parties have reached an agreement with respect to stipulated facts the Court may lean into making a decision.

Is that true?

MS. MILLER: Yes, Your Honor.

MR. CABELKA: Yes.

THE COURT: If you would recite those facts as agreed upon?

MS. MILLER: May I approach?

THE COURT: You may.

MS. MILLER: Your Honor, the stipulations that the parties have agreed to are as follows:

Stipulation Number 1. We stipulate to the findings of facts and the conclusions made by the Tenth Circuit in its July 13th, 2021, opinion.

Number 2. We stipulate that there is no new -- there has been no new evidence developed since the

1 Tenth Circuit's opinion was handed down.

2 And stipulation Number 3. In light of the
3 Tenth Circuit's findings, the absence of any new
4 evidence since the Tenth Circuit's opinion was handed
5 down, the loss of so much of the evidence from the
6 original trial and the unavailability of many of the
7 witnesses has compromised both sides' ability to move
8 forward with this case.

9 THE COURT: And, State, is that correctly
10 stated?

11 MR. CABELKA: That is right, Your Honor.

12 THE COURT: With that, do parties rest upon
13 that stipulation of fact?

14 State? Do you rest?

15 MR. CABELKA: I'm sorry, Judge. What was
16 that?

17 THE COURT: Does the State rest with that
18 stipulation of fact?

19 MR. CABELKA: Yes, Judge.

20 THE COURT: Defense rest as well?

21 MS. MILLER: Yes, Judge.

22 THE COURT: Both sides resting, the Court
23 having reviewed extensively on a previous occasion
24 based on motions for advisory opinions is prepared at
25 this time to sustain the motion to suppress the

1 defendant's confession in this matter. This gives rise
2 to a right on the part of the State to appeal.

3 State, at this time, do you wish to preserve
4 your right to appeal?

5 MR. CABELKA: Yes, Judge. For purposes of
6 this record, I would like to announce the State's
7 intention to appeal.

8 THE COURT: State has given its notice in open
9 court. That triggers the clock. I believe there's an
10 agreement. We will set that out 30 days.

11 Is that correct?

12 MS. MILLER: Yes, Your Honor.

13 THE COURT: State?

14 MR. CABELKA: Yes, that's fine.

15 THE COURT: Thirty-day date?

16 THE BAILIFF: March 26th.

17 THE COURT: On 3/26, if not prior, then what
18 occurs is, State, if a decision not to appeal is
19 arrived at sooner, we can accelerate this matter. But,
20 again, we'll allow the State to appear telephonically
21 at that time given the distance.

22 Anything else we need to do for this record?

23 MS. MILLER: Your Honor, may we have one
24 minute?

25 THE COURT: You may.

1 MS. MILLER: No, Your Honor.

2 THE COURT: All right. State, anything else?

3 MR. CABELKA: And I'm sorry, Your Honor. Just
4 so I'm clear for the potential appeal, is the Court
5 going to generate some type of findings of fact,
6 conclusions of law in support of the order that was
7 just announced?

8 THE COURT: I am not. It has not been
9 requested and I think the stipulation of fact and the
10 record that has been brought into this record -- what
11 the stipulation accomplishes is to incorporate by
12 reference the entirety of the Tenth Circuit's facts,
13 findings, and conclusions, and so I think that's a
14 sufficient record.

15 MR. CABELKA: Okay. I would completely agree
16 with the finding of facts. You know, we stipulated to
17 them. I just didn't know about if there was going to
18 be any type of conclusions of law that then would be
19 made part of the record if there were an appeal done.

20 THE COURT: The only relevant conclusion of
21 law as far as I'm concerned is that the confession
22 should be suppressed, which I have done.

23 MR. CABELKA: Okay.

24 THE COURT: Anything else?

25 MS. MILLER: And we'd refer back to the

1 Court's December 15th, 2023, transcribed ruling on this
2 matter.

3 THE COURT: Yeah, I believe -- I mean, it's
4 ultimately whoever appeals is going to designate what
5 they think is a sufficient record and we've done a
6 substantial amount of, I mean, direct argument. And
7 then the record that's been stipulated to is pretty
8 substantial in and of itself.

9 MR. CABELKA: Yes, sir.

10 THE COURT: All right. Then with that, we're
11 adjourned.

12 MR. CABELKA: I have nothing further.

13 THE COURT: Thank you.

14 (Conclusion of Proceedings.)
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF OKLAHOMA)
)
) SS.
)
 COUNTY OF TULSA)

I, Taisha Irons, a Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the foregoing is a true and correct transcript of the requested proceedings had in Case No. CF-2022-832 taken on February 23rd, 2024, before the Honorable Clifford Smith; and that said transcript is a true and correct transcription of my stenographic notes; and that I am not related to nor affiliated with attorney for either of said parties, nor otherwise interested in the event of said action.

WITNESS my hand and seal this _____ day of
 _____, 2024.
